

REMARKS

Claims 1 and 34 have amended. Support for this amendment is found, for example, in original claims 4 and 7. Amendments to claims 3, 5, 6, 12, and 13 have also been made to conform these claims to amended claim 1. No new matter has been added by the present amendment.

In response to the Restriction Requirement, Applicants elect the invention of Group I and the species GM-CSF. The restriction group includes, as amended herein, claims 1-3, 5, 6, 9-13, 19-22, 31, 34, and 36.

The election is made with traverse as to dependent claims 14-18, which Applicants request be examined with Group I. Group I includes claims directed to methods for promoting structural tissue regeneration using EPO, EMP, or NESP, the special technical feature shared by these claims. Dependent claims 14-18 include this same special technical feature, simply adding the further limitation that the method be carried out on a support structure. Under PCT Rules 13.1 and 13.2, these claims should be examined together. As stated in MPEP 1850 (emphasis added):

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. **The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.**

* * *

Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (PCT Rule 6.4).


As indicated, restriction is improper in the present case between the claims of Group I and claims 14-18. Claims 14-18 share the special technical feature of a method for promoting structural tissue regeneration using EPO, EMP, or NESP, and this technical feature defines a contribution over the prior art, as the Office has cited no references relating to novelty or inventive step that distinguish claims 14-18 from the claims of Group I. Further, claims 14-18 are dependent on Group I claim 1, and MPEP 1850 states that unity of invention must be based on different independent claims only. For all of the above reasons, Applicants request examination of the claims of Group I as well as dependent claims 14-18.

Transmitted herewith is a Petition to extend the period for replying to the Restriction Requirement for one month, to and including November 16, 2008, and payment of the required extension fee.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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